

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4 and 2008 Iowa Acts, Senate File 2425, section 124, the Department of Human Services proposes to amend Chapter 76, "Application and Investigation," and Chapter 80, "Procedure and Method of Payment," Iowa Administrative Code.

The proposed amendments:

- Expand the applicability of Medicaid's health care data match program,
- Expand and clarify the obligations of third parties legally responsible to pay for health care for a Medicaid member, and
- Group provisions regarding payment by third parties into one rule.

The amendments will conform Medicaid rules to statutory changes enacted in 2008 Iowa Acts, Senate File 2425, section 124. This legislation sets standards for providing coverage information to the state, accepting the state's right of recovery, responding to the state's inquiry about claims, and making decisions on claims.

These amendments do not provide for waivers in specified situations because the Department does not have the authority to waive statutory requirements.

Any interested person may make written comments on the proposed amendments on or before December 10, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code chapter 249A as amended by 2008 Iowa Acts, Senate File 2425, section 124.

The following amendments are proposed.

ITEM 1. Amend rule 441—76.13(249A) as follows:

441—76.13(249A) Health insurance care data match program. As a condition of doing business in Iowa, health insurers shall provide, upon the request of the state, information with respect to individuals who are eligible for or are provided medical assistance under the state's medical assistance state plan to determine (1) during what period the individual or the individual's spouse or dependents may be or may have been covered by a health insurer and (2) the nature of the coverage that is or was provided by the health insurer. This requirement applies to self-insured plans, group health plans as defined in the federal Employee Retirement Income Security Act of 1974 (Public Law 93-406), service benefit plans, managed care organizations, pharmacy benefits managers, and other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service.

76.13(1) Agreement required. Any insurance carrier providing a health benefit plan in Iowa subject to regulation by the Iowa commissioner of insurance shall enter into and maintain an agreement with the department or its designee to provide the data necessary to enable the department to match insureds against Medicaid members and identify third-party payers for members. The parties shall sign a data use agreement for the purposes of this rule. The agreement shall prescribe the manner in which information shall be provided to the department of human services and the acceptable uses of the information provided.

a. The initial provision of data shall include the data necessary to enable the department to match ~~insureds~~ covered persons and identify third-party payers for the two-year period before the initial provision of the data. The data shall include the name, address, and identifying number of the plan.

b. Ongoing monthly matches may be limited to changes in the data previously provided, including additional ~~insureds~~ covered persons, with the effective dates of the changes.

76.13(2) No change.

76.13(3) Confidentiality of data. The exchange of information carried out under this rule shall be consistent with all laws, regulations, and rules relating to the confidentiality or privacy of personal information or medical records, including but not limited to:

a. The federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and

b. Regulations promulgated in accordance with that Act and published in 45 CFR Parts 160 through 164.

ITEM 2. Amend rule 441—80.3(249A) as follows:

441—80.3(249A) Amounts paid provider Payment from other sources. ~~The amount of any payment made directly to the provider of care by the recipient, relatives, or any source shall be deducted from the established cost standard for the service provided to establish the amount of payment to be made by the carrier.~~

80.3(1) Payments deducted. The amount of any payment made directly to the provider of care by the recipient, relatives, or any source shall be deducted from the established cost standard for the service provided to establish the amount of payment to be made by Iowa Medicaid.

80.3(2) Third-party liability. When a third-party liability for medical expenses exists, this resource shall be utilized before the Medicaid program makes payment unless:

a. The department pays the total amount allowed under the Medicaid payment schedule and then seeks reimbursement from the liable third party. This “pay and chase” provision applies to claims for:

(1) Prenatal care,

(2) Preventive pediatric services, and

(3) All services provided to a person for whom there is court-ordered medical support.

b. Otherwise authorized by the department.

80.3(3) Recovery from third parties legally responsible to pay for health care. Parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service shall:

a. Respond to any inquiry by the state regarding a claim for payment for any health care item or service that is submitted no later than three years after the date of the provision of the item or service.

b. Agree not to deny any claim submitted by the state solely because of the date of submission of the claim, the type or format of the claim form, or a failure to present proper documentation at the point of sale that is the basis of the claim, if both of the following conditions are met:

(1) The claim is submitted to the entity by the state within the three-year period beginning on the date on which the item or service was furnished.

(2) Any action by the state to enforce its rights with respect to the claim is commenced within six years of the date that the claim was submitted by the state.

c. Reimburse the Medicaid program within 90 days of the request for repayment.
This rule is intended to implement Iowa Code chapter 249A as amended by 2008 Iowa Acts, Senate
File 2425, section 124.

ITEM 3. Rescind and reserve subrule **80.5(2)**.